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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,724	02/08/2001	Rajesh B. Amin	13148RRUS01U (22171.262)	4402
27683	7590	07/27/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			NGUYEN, PHUOC H	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 07/27/2004

*COPY*

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 08/779,724		Applicant(s) AMIN ET AL.	
	Examiner Phuoc H. Nguyen		Art Unit 2143	
	-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --			

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☐ Responsive to communication(s) filed on \_\_\_\_.

2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-135 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-135 is/are rejected.

7) ☐ Claim(s) \_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date ____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: ____
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PTOL-326 (Rev. 1-04)

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-145 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of U.S. Patent No. 6,714,987. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the U.S. Patent.

3. This application is in condition for allowance except for the following formal matters:

- I. Applicant is requested to file a terminal disclaimer.
- II. Applicant is requested to completely fill in class and subclass information for all U.S. patent documents cited in form 1449.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

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A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

***Specification Objection***

Throughout the specification and claims the terminology that applicant used are not understandable such as corresoponding, quaity, initited, seind, useage, hte, futher, corresponding, etc. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-135 rejected under 35 U.S.C. 102(e) as being anticipated by Jorgensen U.S. Patent 6,680,922.

6. Regarding claims 1, 48, and 95, Jorgensen teaches a method a first user to communicate in an Internet Protocol (IP) centric distributed network with a plurality of service layers providing a plurality of functions associated with each of the service layers, the method comprising:

accessing the network to establish a point of presence at an access management layer and a core portion of the network and to designate a default amount of bandwidth

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and a plurality of default setup parameters (Abstract); invoking service through an application server on the network to establish an amount of network resources requested by the first user (Figure 7; col. 52, lines 35-43; col. 82, lines 2-26); establishing a transport session to create and manage a connection from the first user to a destination address (Figure 4, col. 41, lines 34-45; and col. 47, lines 30-44); and accounting for a level of quality of service for a service session within the IP centric distributed network (col. 43, 2<sup>nd</sup> paragraph; and col. 44, lines 46-54).

7. Regarding claims 2, and 49, Jorgensen further teaches the plurality of service layers includes a network service function layer (col. 42, lines 7-39).

8. Regarding claims 3, and 50, Jorgensen further teaches the plurality of service layers includes a local service function layer (col. 30, lines 36-43; and col. 33, lines 19-27).

9. Regarding claims 4, and 51, Jorgensen further teaches the plurality of service layers includes an access service function layer (col. 14, lines 37-49).

10. Regarding claims 5, and 52, Jorgensen further teaches distribution of client server functions within the local service layer (Figures 1A and 2c).

11. Regarding claims 6, and 53, Jorgensen further teaches distribution of client server functions within an access network (col. 24, last paragraph through col. 25, 1<sup>st</sup> paragraph).

12. Regarding claims 7, and 54, Jorgensen further teaches the accessing the network is done through an any access network (xAN) (Figure 2c).

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13. Regarding claims 8,55, and 96, Jorgensen further teaches the accounting for a level of quality of service accommodates desired accounting parameters based on the level of quality of service requested (col. 43, 2<sup>nd</sup> paragraph).
14. Regarding claims 9,56, and 97, Jorgensen further teaches the accounting for a level of quality of service accommodates modifying accounting parameters based on a dynamic change in the level of quality of service (col. 57, lines 52-61).
15. Regarding claims 10,57, and 98, Jorgensen further teaches the accounting for a level of quality of service supports multiple simultaneous applications or services with respective levels of quality of service (col. 43, 2<sup>nd</sup> paragraph).
16. Regarding claims 11,58, and 99, Jorgensen further teaches the accounting for a level of quality of service dynamically segments and aligns billing information to accommodate dynamic changes in the level of quality of service (Figure 11).
17. Regarding claims 12,19,20,22,59,66,67,69,100,107,108, and 110, Jorgensen further teaches requesting a quality of service change initiated from the first/second user (col. 14, 2<sup>nd</sup> paragraph).
18. Regarding claims 13-14,60-61, and 101-102, Jorgensen further teaches communicating between an access point and a policy manager, and the policy manager can be at the access point or at the core network (Figure 11).
19. Regarding claims 15,62, and 103, Jorgensen further teaches creating a user accounting entry at the xAN, corresponding to the requested quality of service and indicating allocated resources for the requested quality of service (col. 78, lines 25-67; and col. 79, lines 15-35).

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20. Regarding claims 16,26,33,63,73,80,104,114, and 121, Jorgensen further teaches sending an accounting model indicator to the xAN (col. 79, lines 20-35).

21. Regarding claims 17,27,64,74,105, and 115, Jorgensen further teaches sending a message to start a record from xAN to an accounting server at the local service layer (Figure 11).

22. Regarding claims 18,28,65,75,106 and 116, Jorgensen further teaches updating a service detail record for the requested quality of service (col. 79, lines 20-35).

23. Regarding claims 21,68, and 109, Jorgensen further teaches the requested quality of service is initiated indirectly by the second user and directly from a network that the second user is attached to (col. 14, 2<sup>nd</sup> paragraph).

24. Regarding claims 23-24,70-71, and 111-112, Jorgensen further teaches communicating between an access point and a policy manager, and the policy manager can be at the access point or at the core network (Figures 2c and 11).

25. Regarding claims 25,72, and 113, Jorgensen further teaches creating a user accounting entry at the xAN, corresponding to the requested quality of service and indicating allocated resources for the requested quality of service (col. 78, lines 25-67; and col. 79, lines 15-35).

26. Regarding claims 29,76, and 117, Jorgensen further teaches requesting a quality of service change initiated from an allied application server (col. 63, 2<sup>nd</sup> paragraph).

27. Regarding claims 30,77, and 118, Jorgensen further teaches creating a service accounting entry at the allied application server indicating allocated services corresponding to the requested quality of service (col. 63, 2<sup>nd</sup> paragraph).

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28. Regarding claims 31,78, and 119, Jorgensen further teaches sending a message to start a record from the allied application server to an accounting server at the local service layer (Figure 11).
29. Regarding claims 32,79, and 120, Jorgensen further teaches updating a service detail record corresponding to a user accounting entry for the requested quality of service, and wherein the user accounting entry is at the local service layer (col. 78, lines 25 through col. 79, lines 35).
30. Regarding claims 34,81, and 122, Jorgensen further teaches creating a user accounting entry at the xAN to track usage specific to the requested quality of service (col. 79, lines 20-35).
31. Regarding claims 35,82, and 123, Jorgensen further teaches dynamically changing the level of quality of service during an established service session (col. 57, lines 52-61).
32. Regarding claims 36,83, and 124, Jorgensen further teaches sending a stop record with quality of service data corresponding to usage before the change in the level of quality of service (col. 13, 1<sup>st</sup> paragraph).
33. Regarding claims 37,84, and 125, Jorgensen further teaches de-allocating, from the xAN, an user accounting entry associated the usage before the change in the level of quality of service (col. 13, 1<sup>st</sup> paragraph).
34. Regarding claims 38,47,85,94,126, and 135, Jorgensen further teaches updating a service detail record at the local service layer (col. 78, lines 25 through col. 79, lines 35).
35. Regarding claims 39,86, and 127 Jorgensen further teaches sending a service detail record from an accounting server at the local service layer to an accounting server



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at the first user's network service layer (Figure 11; and col. 78, lines 25 through col. 79, lines 35).

36. Regarding claims 40,87, and 128, Jorgensen further teaches storing the service detail record at the accounting server of the first user at the network service layer (figure 11).

37. Regarding claims 41,88, and 129, Jorgensen further teaches creating a user accounting entry at the xAN to track usage specific to the change in the level of quality of service (col. 78, lines 25 through col. 79, lines 35).

38. Regarding claims 42,89, and 130, Jorgensen further teaches sending from the xAN, a start record message corresponding to the change in the level of quality of service to an accounting server at the local service layer (col. 13, 1<sup>st</sup> paragraph).

39. Regarding claims 43,90, and 131, Jorgensen further teaches creating a service detail record at an accounting server at the local service layer with an identical session ID as a service detail record corresponding to the level of quality of service before the change (col. 78, lines 25 through col. 79, lines 35).

40. Regarding claims 44,91, and 132, Jorgensen further teaches dynamically changing the level of quality of service during an established service session at an application server on an Internet (col. 57, lines 52-61).

41. Regarding claims 45,92, and 133, Jorgensen further teaches creating a user accounting entry at the xAN to track usage specific to the change in the level of quality of service (col. 78, lines 25 through col. 79, lines 35).

42. Regarding claims 46,93, and 134, Jorgensen further teaches sending from the xAN, a start record message corresponding to the change in the level of quality of service

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to an accounting server at the local service layer (Figure 11; col. 13, 1<sup>st</sup> paragraph; and col. 78, lines 25 through col. 79, lines 35).

### **Conclusion**

43. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Whitehead U.S. Patent 6,295,285

Leung et al. U.S. Patent 6,262,980

Martin U.S. Patent 6,154,776

Maeshima et al. U.S. Patent 6,092,113

Hulyalkar et al. U.S. Patent 5,787,080

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu ( 7AM-4:30PM ) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Phuoc H. Nguyen  
Examiner  
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July 13, 2004

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100